



INDUSTRY CIRCULAR

**DEPARTMENT OF
THE TREASURY**

Bureau of Alcohol, Tobacco and Firearms

Washington, D.C. 20226

Number: 74-4

Date: May 31, 1974

TAX LIABILITY ON UNEXPLAINED SHORTAGES OF BEER

Brewers and others concerned:

The purpose of this circular is to inform brewers of the Bureau's policy on unexplained shortages of beer after it has been filled into bottles, cans, or kegs.

Since achieving Bureau status, it has come to our attention that there is a need for a more uniform policy in handling reported shortages of bottled and kegged beer so as to be equitable throughout the brewing industry. ATF's basic policy with respect to such shortages was stated in Industry Circular Number 64-6 and is restated in pertinent part as follows:

".... beer in kegs and cases is subject to rather precise accounting controls, in that quantities produced, consumed, lost, removed, or otherwise disposed of can be precisely determined by appropriate instruments and procedures which are available and in use throughout industry generally.

It is the responsibility of each brewer to maintain complete and adequate records of his operations, including quantities of keg and case beer on hand, produced, removed, or otherwise disposed of. Any shortage of finished products is an indication that removals have occurred unlawfully without payment of tax and that an assessment to collect the tax may be justified. The burden of proof to the contrary rests upon the brewer."

To avoid misinterpretations of the above excerpts, brewers are advised that when a shortage of bottled or kegged beer is disclosed, either by audit or inspection, or by brewer's reports, and such shortage is not satisfactorily explained, the brewer shall be held liable for the tax involved. The brewer will be requested, in such instances, to include an appropriate adjustment in Schedule B of his Beer Tax Return, or an assessment will be entered against him. In all cases, the brewer will be given every reasonable opportunity to explain and account for a particular shortage and only after full consideration of all the known facts will action be taken to require payment of tax. Brewers are further advised that repetitive instances of apparent shortages being found to result from inaccurate recordkeeping will result in action to impose or compromise the penalties provided for in 26 U.S.C. 5672.

The Bureau recognizes that the nature and extent of brewery operations make it extremely difficult for brewers to obtain counts of bottled and kegged beer with 100% accuracy; but it is felt that all brewers can reduce both the incidence and extent of shortages to a point where they may be accepted as due to unavoidable discrepancies.

Inquiries concerning this Circular should refer to its number and be addressed to the Director.

Rex D. Davis

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Director

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Bureau of Alcohol, Tobacco and Firearms
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